

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

James A. Burk, Jr., et al.,	:	
	:	
Plaintiffs,	:	Civil Action No. 2:20-cv-6256
	:	
v.	:	Judge Graham
	:	
City of Columbus, et al.,	:	Magistrate Judge Vascura
	:	
Defendants.	:	

**PLAINTIFFS' MOTION TO EXCUSE PRESENCE OF SUMMER HILFERS
FROM SECOND WEEK OF TRIAL OTHER THAN WHEN TESTIFYING**

Plaintiffs respectfully move the Court to excuse the presence of Co-Plaintiff Summer Hilfers from the second week of the trial in this matter. The Burk family lives in a rural area in central Tennessee. For the first week of trial, the couple's three-year-old son stayed with Ms. Hilfers' parents. Ms. Hilfers also has been at her current job for only a few months. Extended absences from both the couple's son and from her job have already imposed significant hardship on the family. Additional extended time away will multiply that hardship. Accordingly, Plaintiffs move the court to excuse Ms. Hilfers' attendance for the second week of trial, other than when she is testifying.

The exact scope of this requested absence will depend on whether the jury returns a full or partial Plaintiffs' verdict on liability and, if so, when. Plaintiffs request that the Court excuse Ms. Hilfers at least on Tuesday, November 12. If the case proceeds to a damages phase, Ms. Hilfers will likely be the last witness in Plaintiffs' case-in-chief. Accordingly, if the jury returns a Plaintiffs' verdict on November 12, it is exceedingly unlikely that Ms. Hilfers would provide damages testimony that day. And, if somehow every other Plaintiffs' witness finished testifying with enough time left in the day for another witness, then Ms. Hilfers could be available by Zoom.

Plaintiffs would then intend to have Ms. Hilfers present on Wednesday, November 13, to testify in person. Based on current planning, Plaintiffs would then ask the Court to excuse Ms. Hilfers from the remainder of the trial.

Ms. Hilfers' only claim is a derivative claim for loss of consortium. Mr. Burk will be present the entire trial as the lead plaintiff. Allowing Ms. Hilfers to limit her appearance next week to the day of her testimony would not prejudice defendants, as they will still have the same opportunity to cross examine, and it will reduce the hardship on the Burk family. Ms. Hilfers would be reachable by phone or videoconference if any developments outside of her testimony would require her attention. Accordingly, Plaintiffs respectfully move the Court to excuse her attendance other than when testifying.

Respectfully submitted,

/s/ Barton R. Keyes

Rex H. Elliott (0054054)

Barton R. Keyes (0083979)

Abigail F. Chin (0097928)

Cooper Elliott

305 West Nationwide Boulevard

Columbus, Ohio 43215

(614) 481-6000

(614) 481-6001 (fax)

rex@cooperelliott.com

bartk@cooperelliott.com

abbyc@cooperelliott.com

Attorneys for Plaintiffs

James Burk and Summer Hilfers

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Motion to Excuse Attendance was filed electronically and served electronically on the following counsel of record, this 8th day of November, 2024:

Alexandra N. Pickerill, Esq.
Sheena D. Rosenberg, Esq.
Sarah N. Feldkamp, Esq.
Assistant City Attorneys
City of Columbus, Department of Law
Zach Klein, City Attorney
77 North Front Street
Columbus, Ohio 43215
anpickerill@columbus.gov
sdrosenberg@columbus.gov
snfeldkamp@columbus.gov

Attorneys for Defendants

/s/ Barton R. Keyes _____